

Linda S. Larson
3014 Huff Ave., Apt. 4
San Jose, CA 95128
(408) 244-5554

1982
1ST Place - Open
(\$200.00)

DELPHIN MICHAEL DELMAS

NAPOLEON OF THE BAR

Call
340.092

TABLE OF CONTENTS

Introduction.	1
Chapter One: Growing Up	2
Chapter Two: Life in San Jose	4
Chapter Three: The Move to San Francisco.	6
Chapter Four: Colton and Spreckels.	8
Chapter Five: The Thaw Trial.	.11
Chapter Six: Los Angeles and Retirement	.16
Footnotes	.17
Bibliography.	.20

INTRODUCTION

Although not born in Santa Clara County, Delphin Michael Delmas established himself as a successful member of the valley. His chosen profession was lawyer, and he did his job with a flare and dedication unheard of in today's legal system.

The only political office Delmas ever held was that of District Attorney for Santa Clara County, a position in which he served from 1867 until 1869.

The most famous case Delmas participated in was Harry K. Thaw's murder of Stanford White in 1906. This case put Delmas' name before the nation as the westerner who defeated one of New York's finest District Attorneys.

Details of Delmas' life are far from complete, and this biography attempts to incorporate the patchwork of information into a quilt that covers his achievements in life.

Chapter 1: GROWING UP

Born in southern France on April 14, 1844, Delphin Michael Delmas emigrated to San Jose, California, at the age of ten. Delphin travelled with his mother, and they joined his father who had come out five years earlier to establish a home for his family.

Antoine Delmas brought grape cuttings with him and established a vineyard in San Jose. The Delmas property was located, "in the 'V' south of Santa Clara Street formed by Los Gatos Creek and the Guadalupe River. Delmas Avenue [still in use today] bisected the property, according to records in the county's road file."¹

One history of Santa Clara County notes that Delphin began his studies at Santa Clara College in 1858,² while another points out that he entered the institution at the age of twelve.³ At any rate, he was a good student and received his Bachelor of Arts degree in 1862. The following year, at the age of 19, he not only successfully completed the requirements for a Master of Arts degree, but also earned the highest honors of his class.

Like most men of his day, Delmas began his legal career by reading law in the office of an established attorney. In July, 1863, Delmas' legal education got underway in San Francisco in the office of S.W. Holladay.⁵

Within a few months, however, he elected to return to a more structured form of education, and travelled to Yale University. This institution granted him a Bachelor of Laws degree in 1865. In September of that year he was admitted to practice before the Supreme

Delmas-3

Court of Connecticut.⁶

Chapter 2: LIFE IN SAN JOSE

Instead of remaining on the East Coast, Delmas ~~chose~~ to return to California, settling in San Jose. In less than a year he was called to the Bar of the Supreme Court of California. Shortly thereafter, he took up practice with Bernard D. Murphy.⁷

The son of Martin and Mary Murphy, Jr., Bernard was later elected mayor of San Jose. His term ran from 1873 until 1877.

Although he was only 22 years old at the time, Delmas was elected District Attorney for Santa Clara County in 1867.⁸ It was the only political office he ever held.

Delmas married Pauline Hoge on April 7, 1869.⁹ She was a daughter of "Colonel" Joseph P. Hoge,¹⁰ a successful lawyer in San Francisco. One source classified Hoge as a native of Galena, Illinois;¹¹ another claims he came westward from Pennsylvania.¹²

Hoge served as President of the Second Constitutional Convention of California, representing the first congressional district, San Francisco.¹³

Delphin and Pauline had four children: Delphin, Paul, Antoinette, and Josephine.¹⁴

Following his two-year term as District Attorney, Delmas returned to private practice as a member of the firm of Moore, Laine and Delmas.¹⁵ According to San Jose's first City Directory, published in 1870, his office was located at 248 Santa Clara Street, between Market and Lightston.¹⁶

In 1876 Delmas chose to practice law without partners. By 1882,

Delmas-5

he had his own office building. Named for one of his sons, the Paul Block was located on the southeast corner of Fountain and First streets in downtown San Jose.¹⁷ Delmas' offices occupied rooms one through five of the building. Reportedly, his library, which was housed within the offices, contained, "over 3,000 volumes, the largest and most complete private law library in the State."¹⁸

Apparently Delmas' practice was quite successful, because in 1879 he vacationed in Europe, returning in April, 1880.¹⁹

The San Jose City Directory for 1882-3 lists his residence as being located in Santa Clara.²⁰ Later, he moved out to the country in Mountain View where he purchased a 500-acre ranch complete with its own winery.

Delmas earned the nickname "Napoleon of the Bar," not only for his talented legal accomplishments, but also for his strong physical resemblance to the former Emperor of France. The facial likeness was emphasized by the way in which he wore his hair swept across his forehead.²² Some even contended that the two were related -- something that Delmas neither confirmed nor denied, adding to the intrigue.

One history of the county praised Delmas in phrases nearly as flowery and eloquent as those penned by Delmas himself:

Combining with a clear intellect the rare gift of eloquence, Mr. Delmas has placed himself at the head of his profession. In the many difficult cases in which he has appeared, he has brought a large knowledge of law to aid him in the unraveling of knotty points, while, privately, we may add that he is an impartial friend, warm of heart and kindly of disposition, ever courteous to all, friend and foe alike, ²³ while he is an undoubted ornament to the Bar of California.

Chapter 3: THE MOVE TO SAN FRANCISCO

Delmas took his legal practice to San Francisco in 1883.²⁴

Although he maintained his ranch home in Mountain View, he also acquired a home in San Francisco. Located on the southwest corner of Taylor and Washington streets, Delmas' city residence had been the family mansion of William T. Coleman, a leader of the Vigilance Committee of 1856. Delmas paid \$40,000 for the home in 1890.²⁵ A number of sources indicate that Delmas enjoyed practicing his legal speeches among the vines at his home in Mountain View.

Samuel M. Shortridge formed a partnership with Delmas in January, 1894.²⁶

In addition to his legal practice, Delmas devoted considerable time and energy to an early preservation project: the saving of California's Redwoods. Along with other noteworthy Californians such as photographer and painter Andrew P. Hill, Judge John E. Richards and Santa Clara College President Robert E. Kenna, S.J.,²⁷ Delmas sought to prevent the destruction of the beautiful trees in the Santa Cruz Range.

In his address delivered before the California Assembly in Sacramento on February 18, 1901, Delmas urged passage of legislation designed to preserve the Redwoods for the enjoyment of future generations. This speech displays the rich flavor of his language, a talent he undoubtedly had developed through years of experience in the courtrooms of the state:

As you behold their lofty foliage stirred by the ocean breeze,
you seem to hear them murmur a prayer to be saved from such

Chapter 4: COLTON AND SPRECKELS

Continuing his legal practice in San Francisco, Delmas handled a number of significant cases. One such case revolved around Ellen M. Colton's attempt to nullify a contract she had signed with the "Big Four" of railroad fame, Collis P. Huntington, Leland Stanford, Charles Crocker and (the late) Mark Hopkins. Several sources called the case one of the most important ever tried within the State. Oscar T. Shuck's History of the Bench and Bar of California put it this way:

This case, if regard be had to the eminence of the counsel engaged, the standing of the litigants, the amount involved, the nature of the issues, and the duration of the trial, is, doubtless, the most important that has been tried in the State in the last quarter of a century.³¹

The trial took place in Santa Rosa, and was heard before Jackson Temple. Beginning in November, 1893, it lasted for a year and one-half. There were four counsel on each side of the case; their arguments took over four months to be presented. Delmas' closing argument alone constituted a document in excess of 250 pages.³² Interestingly enough, one of the lawyers for the other side was Delmas' own father-in-law, Joseph P. Hoge.

Mrs. Colton's husband, David, formally joined ranks with the other four at the urging of Huntington upon the signing of an agreement dated October 5, 1874.³³

Delmas' description of the event in his closing remarks for the trial emphasized Colton's attributes:

The year 1874 beheld them [the Big Four] rich and powerful. Riches and power might have brought rest. But the indomitable spirit of Huntington knew no such thing as rest. He chafed at

the inactivity and luxurious indulgence of Stanford. He railed at the sentimental journeys of Crocker through Europe and the Orient. He sought upon this coast a man like unto himself -- a fit companion in his policy. He found such a man in David D. Colton. For Colton united in himself many of the qualities and traits of character which individually possessed by these other men -- the breadth of view of Huntington, the popularity of Stanford, the boldness of Crocker, the prudent husbandry of Hopkins.³⁴

Although Delmas' side ultimately lost the case, it brought him considerable publicity as one of California's outstanding legal minds. In fact, Charles Crocker's response to the outcome of the trial is certainly worth noting. Crocker was in New York at the time, and one of his attorneys, Hall McAllister, had informed him of Delmas' talents in the courtroom. Delmas' own obituary records the event this way:

. . . on one occasion McAllister sent him [Crocker] a telegram dwelling upon the eloquence of Delmas in argument. At the conclusion of the case, McAllister sent another telegram to appraise Crocker of his victory, but he chose to impart the information by sending him 'Justice has triumphed.' Immediately there came a wire from Crocker, saying: 'Appeal at once.'³⁵

Another notable case in which Delmas had more success was that of Baron John Henry von Shroeder's suit against John D. Spreckels, of Spreckels sugar fame. The Spreckels-owned San Francisco Morning Call had published in October, 1898, an account of the swinging happenings at the Baron's Hotel Rafael in Marin County, spotlighting von Shroeder's conduct toward female guests, both married and single. For the injury to his reputation, the Baron sought \$250,000 in his libel suit.

One newspaper account at the time of the trial noted that it was a remarkable case because of "the prominence of the two parties, their wealth, and the fact that the testimony in the case would involve the

desecration. That prayer finds a response in every generous breast throughout the length and breadth of our State. It is echoed by those whose affection for California is the love of children for a mother -- the Native Sons and Native Daughters. . . . It is echoed by the officials of our great seats of learning -- the universities at Berkeley and Palo Alto, the venerable college at Santa Clara, and the State Normal School at San Jose. It is echoed by the Board of Supervisors of San Francisco, Santa Clara and Santa Cruz. It is echoed, in fine, by the people of the whole State, regardless of party, speaking both in the Republican and Democratic platforms adopted at the late conventions. In one universal accord the inhabitants of California call upon you from her mountains and her vallies, from her cities, her villages and her farms to second the labors²⁸ of those who would interpose to prevent the work of destruction.

Delmas skillfully blocked opposition by answering questions, such as the expense involved, before they were ever raised, while also pointing out that other states and nations had already acted in a similar manner. Only direct quotation allows his unique use of the English language to shine through:

Furthermore, what, after all, will the money needed to save this forest amount to? Distributed per capita among the inhabitants of the State, it will not equal for each individual the value of the stationery which each one of you consumes in twenty-four hours, not the cost of his daily carfare in coming to this chamber. The states of Europe -- France and Germany notably -- lay out yearly vast sums in the preservation of such forests as are left them. New York and Massachusetts do the same. The city of San Francisco has expended millions to convert²⁹ the sand-dunes of her suburbs into her Golden Gate Park.

The measure passed shortly after Delmas had addressed the legislature. After Governor Henry T. Gage approved it, the new law took effect on March 16, 1901.

Delmas-10

names of some of the lady guests."³⁶

Delmas represented Spreckels in the case. His arguments dealt directly with an issue still being debated in the courtroom: that of personal privacy versus the media's responsibility to inform the public. In his remarks to the jury, he addressed the question head-on:

You will decide the question whether, whenever it acquires knowledge of individual conduct of such an open and flagrant character as to become a menace to mortals, it is the right and duty of a newspaper to protect the homes of the community by holding up that conduct to public censure.³⁷

Delmas' conclusion about the role of the press still rings true as a logical balance between the extremes of total freedom to pursue information and total censure of information. In the courtroom, he expressed it this way:

The rights and duties of the press are, at times, much misunderstood. No one contends, of course, that it has the right to invade homes for the purpose of prying into strictly private conduct, however depraved. But whenever that conduct takes place under such circumstances that the public must, of necessity, be affected by it, then a public journal has not only the right, but is charged with the duty of exposing it. If, therefore, the character of the life led by the plaintiff has been not only in itself immoral, but has been displayed in such a manner that the public could not but be scandalized by it, I shall appeal to you to establish by your verdict that the newspaper which has held him up on his true light is not only open to the charge of overstepping the bounds of its legitimate province, but, on the contrary, deserves commendation for what it has done.³⁸

The jury appears to have agreed with Delmas, for von Shroeder received one dollar for the damage done to his good name.

Chapter 5: THE THAW TRIAL

Without a doubt, the Harry Kendall Thaw murder trial was the most famous case Delmas undertook in his lengthy career. Much attention was drawn to the case simply by virtue of the fact that the people involved were extraordinarily wealthy and, through their wealth, influential.

The story is a familiar one to most historians of turn-of-the-century America. Indeed, the movie Ragtime which earned eight Academy Award nominations this year, was based on a novel that used several of the characters involved in the Thaw case. Naturally, the actor who portrayed Delmas did not resemble him in the slightest.

A brief summary of the occurrences that led up to the trial will help to illustrate the monumental task Delmas had in defending Thaw. On June 25, 1906, the play Mamzelle Champagne opened at Madison Square Garden in New York City. Most accounts record that the play was rather dull. Stanford White, a master architect whose name was as familiar then as is Frank Lloyd Wright's today, chose to endure the boredom because the stage manager had promised to introduce him to a chorus girl who had caught his attention at an earlier show.

When Thaw arrived, with his wife and two friends, he stood out in the crowd because he was wearing an overcoat and straw hat, in spite of the pleasant spring weather. Apparently bored with the performance, he drifted from table to table, chatting with acquaintances. At 34, Thaw already had a reputation as the millionaire son of the late railroad and coke magnate William Thaw.

As the singer on stage began singing, "I Could Love a Million Girls," Thaw approached White and shot him three times. Mamzelle Champagne came to an abrupt halt and the audience panicked. Thaw held his gun in midair as if signaling the end of the action and proceeded to the nearest exit.

In the meantime, Evelyn Nesbit Thaw (Harry's showgirl wife) and friends had decided to walk out on the dull performance. They had not realized that Thaw was not with them until they had reached the elevators. It was then that they heard the shots within the theatre.

Bewildered, Evelyn asked Harry, who had just entered the hall still holding the pistol, "What have you done?"

"All right, dearie. I have probably saved your life," he replied nonchalantly. Within minutes, Harry Thaw was arrested and taken to jail.³⁹

Headlines the next morning informed the nation of Thaw's deed. The concept of being innocent until proved guilty was forgotten by the New York Times' headline writer who boldly proclaimed, "THAW MURDERS STANFORD WHITE -- Shoots Him on the Madison Square Garden Roof -- About Evelyn Nesbit -- 'You've Ruined my Life,' He Cries and Fires -- Audience in a panic -- Chairs and tables are overturned in a wild scramble for the exits."⁴⁰

A later report in the New York Times examined the publicity issue of the case:

'The Thaw trial . . . is being reported to the ends of the civilized globe. The eminence of the victims, the wealth of the prisoner, the dramatic circumstances of the crime, and the light it sheds not only on Broadway life, but on the doings of the fast set in every capital have caused special arrangements

to be made for the press.⁴¹

That Thaw killed White was never in dispute. Instead, the reputations of Stanford White, Evelyn Nesbit Thaw and Harry Thaw formed the main focus of the trial. It appears that, prior to her marriage to Thaw, Evelyn Nesbit had been "deflowered" by White. While the testimony in the case may seem tame by today's standards, it caused quite a stir at the time.

The opening speech for the defense saw John B. Gleason take charge, for reasons never made clear. He had never pleaded a criminal case in his long career, and rambled on, quoting Shakespeare, Goethe, and Robert Louis Stevenson.⁴² Upon adjournment for the first day of the trial, Thaw's six lawyers went into conference. Five quickly agreed that Delmas should step up as chief of the defense staff.⁴³ This shift brought Delmas' talents to the forefront in a direct contest with New York's famous District Attorney, William Travers Jerome.

Delmas' defense of Thaw was unusually trying because Thaw, although he had committed the crime before hundreds of witnesses, insisted that insanity not be used as his defense. Evelyn's testimony became the focal point of Delmas' arguments. There appears to be some indication that Evelyn's willingness to testify for her husband stemmed not from her love of him, but from her love of money. One report claims that she received \$200,000 from the Thaw family for her moving court performance.⁴⁴ Even the previously-mentioned movie Ragtime shows Delmas himself offering Evelyn a bribe for her testimony.

It was Evelyn's story that caused eyebrows to be raised in shock. Evelyn testified that she had confessed to Harry all the sordid details of her relationship with White as an explanation of why she could not accept his marriage proposal. Whether the incidents with White actually took place was not at issue in the Thaw trial. What Evelyn told Harry was of vital importance because this information was used to imply that it so upset Thaw that it ultimately led to his murdering White.

After following the Thaw trial for some time, one reporter described Delmas' approach to his chosen profession:

Juries like Delmas for the same reasons that women do: and he is the manner of man whom women instantly like. . . . There is the flattering unction that causes a washerwoman to forget that she is not a queen. He bends over an ordinary feminine hand as though it were a lily leaf that has floated downward from the gardens of paradise.⁴⁵

In Delmas' concluding remarks he painted a vivid picture of White as a man who took advantage of Evelyn's innocence, implying that his behavior almost justified Thaw's murder:

To a gilded den fitted with luxuries and adornments this man, old enough and more than old enough to be her father, enticed this child, and there he ruined her. . . . Oh, better that Stanford White had never been born than that he should have seen that girl's anguish! Better that his eyes had never been opened rather than that he should have heard the agonized shriek of his mangled, deflowered prey. He had committed the most hideous crime that any man can commit -- to gratify his passion. He had crushed the poor little thing -- the sweet little flower that was struggling toward the light and God.⁴⁶

District Attorney Jerome was unable to deal a direct blow to the cunning defense strategy that Delmas developed. He hinted several times that he could prove that White was not even in New

Delmas-15

York City when White allegedly took advantage of the beautiful Evelyn.

More importantly, in his closing remarks to the jury, Jerome made what was probably the most insightful comment about Evelyn's character;

This is a case where a woman lay like a tigress between two men, egging them on. To Thaw she said White had wronged her. To White she said that Thaw had beaten her with a whip. . . . Will you acquit a cold-blooded, deliberate, cowardly murderer because his lying wife has a pretty face?47

In Delmas' concluding remarks he asked the gentlemen of the jury to consider Thaw's crime justifiable because he performed the deed in order to preserve the sanctity of his home.

The case resulted in a hung jury with five voting Thaw not guilty by reason of insanity and seven calling him guilty of first-degree murder. Although Thaw's problems were far from over, the hung jury verdict was sufficient to spare his life, and he was ultimately acquitted of the deed.

Delmas earned substantial publicity from the Thaw trial as the western lawyer who stumped one of New York's finest District Attorneys.

Chapter 6: LOS ANGELES AND RETIREMENT

Upon the conclusion of the lengthy Thaw trial, Delmas returned to San Francisco for a short time. He then moved to Los Angeles where his work concentrated on consulting work rather than as a practitioner.⁴⁸

Apparently, Delmas feared some of the men he had defeated in the courtroom. This fear was so great that he wore a bullet-proof vest and travelled with a bodyguard.⁴⁹

Delmas continued his work until a few weeks prior to his death. He was 84 when he died in Santa Monica on August 1, 1928.⁵⁰

So ended the substantial career of a man who, through his talented use of the English language that he did not even begin to learn until the age of ten, met numerous challenges in the courtrooms of the United States. Delphin Michael Delmas was indeed a significant contributor to the development of the Santa Clara Valley.

FOOTNOTES

- ¹Patricia Loomis, "Delmas -- A Name of Significance in Valley," San Jose News, April 7, 1978, p. 1B.
- ²J.P. Munro-Fraser, History of Santa Clara County, California (San Francisco: Alley, Bowen & Co., Publishers, 1881), p. 707.
- ³Loomis. This is further supported by Delmas' obituary in the San Francisco Chronicle (August 2, 1928) which states that he first attended Santa Clara College in 1856.
- ⁴H.E. Boothby, Editor, Sunshine, Fruit and Flowers (San Jose: San Jose Mercury, 1895), p. 268.
- ⁵Munro-Fraser, p. 707.
- ⁶Boothby, p. 268.
- ⁷Munro-Fraser, pp. 707-8.
- ⁸Loomis.
- ⁹Munro-Fraser, p. 708.
- ¹⁰Oscar T. Shuck, Editor, History of the Bench and Bar of California (Los Angeles: The Commercial Printing House, 1901), p. 566.
- ¹¹Munro-Fraser, p. 708.
- ¹²California Blue Book, 1899, p. 312.
- ¹³California Blue Book, 1899, pp. 310 and 312.
- ¹⁴Munro-Fraser, p. 708.
- ¹⁵Boothby, p. 268.
- ¹⁶San Jose City Directory, 1870, p. 147.
- ¹⁷San Jose City Directory, 1889, p. 27.
- ¹⁸Munro-Fraser, p. 708.

Delmas-18

¹⁹Munro-Fraser, p. 708.

²⁰San Jose City Directory, 1882-3, p. 153.

²¹Loomis.

²²T.J. Bellew, "Delmas Dazzled the East," Los Angeles Times (?), April 14, 1925. This article appears to have been published in a Los Angeles newspaper; it is pasted inside the San Jose Public Library's copy of Delmas' Speeches and Addresses, housed in the California Room.

²³Munro-Fraser, p. 708.

²⁴Boothby, p. 268.

²⁵Shuck, p. 629.

²⁶Boothby, p. 268.

²⁷In 1902 a literary magazine was founded (later to become the yearbook) on the Santa Clara College campus that was named the Redwood in honor of Fr. Robert Kenna's participation in the efforts to save these trees. Anonymous, Diamond Jubilee Volume, 1851-1926 (San Francisco: Cloister Press, n.d.), p. 23.

²⁸Delphin Michael Delmas, Speeches and Addresses (San Francisco: Robertson, 1901), p. 357.

²⁹Delmas, p. 361.

³⁰Delmas, p. 353.

³¹Shuck, p. 625.

³²Delmas, p. 344.

³³Delmas, pp. 349-50.

³⁴Delmas, p. 349.

³⁵San Francisco Chronicle, August 2, 1928.

Delmas-19

³⁶Delmas, p. 8, quotes this newspaper account without giving an exact source.

³⁷Delmas, p. 9.

³⁸Delmas, p. 10.

³⁹Gerald Langford, *The Murder of Stanford White* (New York: Bobbs-Merrill Co., Inc., 1962), p. 19. An excellent account of the Thaw murder and aftermath, this volume relies heavily on newspaper accounts of the time for information.

⁴⁰Langford, p. 22.

⁴¹Langford, p. 62.

⁴²Langford, p. 81.

⁴³Langford, p. 73.

⁴⁴Langford, p. 240.

⁴⁵Langford, p. 91.

⁴⁶Langford, p. 203.

⁴⁷Langford, pp. 204-5.

⁴⁸Anonymous, "While Time is Fleeing," San Jose Mercury Herald, April 15, 1925, p. 1.

⁴⁹Loomis.

⁵⁰San Francisco Chronicle, August 2, 1928.

BIBLIOGRAPHY

- Anon. California Blue Book. 1899.
- Anon. Diamond Jubilee Volume, 1851-1926. San Francisco: Cloister Press, n.d. [1926?].
- Anon. San Francisco Chronicle. August 2, 1928.
- Anon. San Jose City Directory. 1870.
- Anon. San Jose City Directory. 1882-3.
- Anon. San Jose City Directory. 1889.
- Anon. "While Time is Fleeing," San Jose Mercury Herald, April 15, 1925, p. 1.
- Bellew, T.J. "Delmas Dazzled the East," Los Angeles Times (?), April 14, 1925.
- Boothby, H.E., Editor. Sunshine, Fruit and Flowers: Santa Clara County and its Resources; Historical, Descriptive, Statistical. San Jose: San Jose Mercury, 1895.
- Delmas, Delphin Michael. Speeches and Addresses. San Francisco: Robertson, 1901.
- Langford, Gerald. The Murder of Stanford White. New York: Bobbs-Merrill Co., Inc., 1962.
- Loomis, Patricia. "Delmas -- A Name of Significance in Valley," San Jose News, April 7, 1978, p. 1B.
- Munro-Fraser, J.P. History of Santa Clara County, California. San Francisco: Alley, Bowen and Co., Publishers, 1881.
- Shuck, Oscar T., Editor. History of the Bench and Bar of California: Being Biographies of many Remarkable Men, a Store of Humorous and

Delmas-21

Pathetic Recollections, Accounts of Important Legislation and
Extraordinary Cases, Comprehending the Judicial History of the
State. Los Angeles: The Commercial Printing House, 1901.